

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GKN DRIVELINE NEWTON, LLC,

Plaintiff,

Case No. 21-cv-11945

Hon. Matthew F. Leitman

v.

ELECTRICFIL DE MEXICO
S.A. de C.V.,

Defendant.

**ORDER TERMINATING AS MOOT PLAINTIFF’S *EX PARTE* MOTION
FOR ALTERNATIVE SERVICE (ECF No. 10)**

This action concerns a contractual dispute between two automotive product manufacturers: Plaintiff GKN Driveline Newton, LLC (“GKN”) and its supplier, Defendant Electroficil De Mexico S.A. de C.V. (“EFI”). On April 22, 2022, GKN filed the instant motion seeking leave to serve EFI via email, under Federal Rule of Civil Procedure 4(f)(3). (*See* Mot., ECF No. 10.) After GKN filed its motion, counsel for EFI entered an appearance in this action (*see* Appearance, ECF No. 11), and EFI moved to dismiss under Rule 12(b)(6) pursuant to a forum selection clause. (*See* Mot., ECF No. 12.) EFI’s motion did not contest service of process, and therefore EFI has waived any defense pertaining to insufficient service of process. *See Boulger v. Woods*, 917 F.3d 471, 476 (6th Cir. 2019) (“Under the Federal Rules of Civil Procedure, a defendant who files a motion under Rule 12 and fails to raise

the defense of insufficient service of process ‘waives’ that defense.”) (quoting King v. Taylor, 694 F.3d 650, 656 (6th Cir. 2012)). Accordingly, the Court **TERMINATES AS MOOT** GKN’s motion for leave to serve EFI via email (ECF No. 10).

IT IS SO ORDERED.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: April 27, 2022

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on April 27, 2022, by electronic means and/or ordinary mail.

s/Holly A. Ryan
Case Manager
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